

# State of South Dakota

EIGHTY-EIGHTH SESSION  
LEGISLATIVE ASSEMBLY, 2013

264U0556

## SENATE BILL NO. 149

Introduced by: Senator Bradford and Representatives Heinert and Killer

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to violations found  
2 through environmental audits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-40-34 be amended to read as follows:

5 1-40-34. The department ~~may not~~ shall pursue civil penalties ~~or~~ criminal prosecution, or  
6 both, for violations found during an environmental audit that ~~are~~ were not disclosed in writing  
7 to the department secretary ~~in writing within thirty days after the violation is found~~ within  
8 twenty-four hours of detection by the regulated entity or within twenty-four hours of when the  
9 regulated entity should have reasonably detected the violation. Violations found by the  
10 department prior to the time a regulated entity has disclosed these violations in writing to the  
11 department secretary are not covered by the provisions of §§ 1-40-33 to 1-40-37, inclusive. If  
12 a state program is required in writing by a federal agency to assess penalties for a violation in  
13 order to maintain primacy over a federally-delegated program, or if violations caused damage  
14 to human health or the environment, the provisions of §§ 1-40-33 to 1-40-37, inclusive do not  
15 apply. If violations are found during an audit and disclosed in writing to the department



1 secretary, the violations must be corrected within sixty days of discovery. If correction is not  
2 possible within sixty days, a written compliance schedule shall be negotiated between the  
3 department and the regulated entity to correct violations disclosed; or found, or the regulated  
4 entity shall immediately cease all operations under the permit unless the violation has been  
5 resolved to the satisfaction of the department at the time of the disclosure or finding.